



Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**SIMNY G. GUY, GERALDINE  
G. GUY, GLADYS G. YAO,  
and the HEIRS OF THE LATE  
GRACE G. CHEU,**

**G.R. No. 189486**

Petitioners,

*-versus-*

**GILBERT G. GUY,**

Respondent.

X -----X

**SIMNY G. GUY, GERALDINE  
G. GUY, GLADYS G. YAO,  
and the HEIRS OF THE LATE  
GRACE G. CHEU,**

**G.R. No. 189699**

Petitioners,

Present:

**CARPIO, J.,  
Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, JJ.**

*-versus-*

**THE HON. OFELIA C. CALO, in her  
capacity as Presiding Judge of the  
RTC - Mandaluyong City – Branch  
211 and GILBERT G. GUY,**

Promulgated:

**SEP 05 2012**

Respondents.

X -----X

## DECISION

**PEREZ, J.:**

### THE FACTS

With 519,997 shares of stock as reflected in Stock Certificate Nos. 004-014, herein respondent Gilbert G. Guy (Gilbert) practically owned almost 80 percent of the 650,000 subscribed capital stock of GoodGold Realty & Development Corporation (GoodGold),<sup>1</sup> one of the multi-million corporations which Gilbert claimed to have established in his 30s. GoodGold's remaining shares were divided among Francisco Guy (Francisco) with 130,000 shares, Simny Guy (Simny), Benjamin Lim and Paulino Delfin Pe, with one share each, respectively.

Gilbert is the son of spouses Francisco and Simny. Simny, one of the petitioners, however, alleged that it was she and her husband who established GoodGold, putting the bulk of its shares under Gilbert's name. She claimed that with their eldest son, Gaspar G. Guy (Gaspar), having entered the Focolare Missionary in 1970s, renouncing worldly possessions,<sup>2</sup> she and Francisco put the future of the Guy group of companies in Gilbert's hands. Gilbert was expected to bring to new heights their family multi-million businesses and they, his parents, had high hopes in him.

Simny further claimed that upon the advice of their lawyers, upon the incorporation of GoodGold, they issued stock certificates reflecting the shares held by each stockholder duly signed by Francisco as President and Atty. Emmanuel Paras as Corporate Secretary, with corresponding blank

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<sup>1</sup> *Rollo* (G.R. No. 189486), p. 118.

<sup>2</sup> *Id.* at 254.

endorsements at the back of each certificate – including Stock Certificate Nos. 004-014 under Gilbert’s name.<sup>3</sup> These certificates were all with Gilbert’s irrevocable endorsement and power of attorney to have these stocks transferred in the books of corporation.<sup>4</sup> All of these certificates were always in the undisturbed possession of the spouses Francisco and Simny, including Stock Certificate Nos. 004-014.<sup>5</sup>

In 1999, the aging Francisco instructed Benjamin Lim, a nominal shareholder of GoodGold and his trusted employee, to collaborate with Atty. Emmanuel Paras, to redistribute GoodGold’s shareholdings evenly among his children, namely, Gilbert, Grace Guy-Cheu (Grace), Geraldine Guy (Geraldine), and Gladys Guy (Gladys), while maintaining a proportionate share for himself and his wife, Simny.<sup>6</sup>

Accordingly, some of GoodGold’s certificates were cancelled and new ones were issued to represent the redistribution of GoodGold’s shares of stock. The new certificates of stock were signed by Francisco and Atty. Emmanuel Paras, as President and Corporate Secretary, respectively.

The shares of stock were distributed among the following stockholders:

NAME		NO. OF SHARES
Francisco Guy	[husband]	195,000
Simny G. Guy	[wife]	195,000
Gilbert G. Guy	[son]	65,000
Geraldine G. Guy	[daughter]	65,000
Grace G.Cheu (or her heirs)	[daughter]	65,000
Gladys G.Yao	[daughter]	65,000
Total		650,000 <sup>7</sup>

<sup>3</sup> Id. at 208-218.

<sup>4</sup> Id.

<sup>5</sup> Id. at 462.

<sup>6</sup> Id. at 7-8.

<sup>7</sup> Id. at 9.

In September 2004, or five years after the redistribution of GoodGold's shares of stock, Gilbert filed with the Regional Trial Court (RTC) of Manila, a Complaint for the "Declaration of Nullity of Transfers of Shares in GoodGold and of General Information Sheets and Minutes of Meeting, and for Damages with Application for a Preliminary Injunctive Relief," against his mother, Simny, and his sisters, Geraldine, Grace, and Gladys.<sup>8</sup> Gilbert alleged, among others, that no stock certificate ever existed;<sup>9</sup> that his signature at the back of the spurious Stock Certificate Nos. 004-014 which purportedly endorsed the same and that of the corporate secretary, Emmanuel Paras, at the obverse side of the certificates were forged, and, hence, should be nullified.<sup>10</sup>

Gilbert, however, withdrew the complaint, after the National Bureau of Investigation (NBI) submitted a report to the RTC of Manila authenticating Gilbert's signature in the endorsed certificates.<sup>11</sup> The NBI report stated:

FINDINGS:

Comparative analysis of the specimens submitted under magnification using varied lighting process and with the aid of photographic enlargements **disclosed the presence of significant and fundamental similarities in the personal handwriting habits existing between the questioned signatures of "GILBERT G. GUY" and "EMMANUEL C. PARAS," on one hand, and their corresponding standard specimen/exemplar signatures, on the other hand, such as in:**

- **Basic design of letters/elements;**
- **Manner of execution/line quality;**
- **Minute identifying details.**

CONCLUSION:

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<sup>8</sup> Id. at 9.  
<sup>9</sup> Id. at 123.  
<sup>10</sup> Id.  
<sup>11</sup> Id. at 321-330.

- A. **The questioned and the standard specimen/exemplar signatures [of] Gilbert G. Guy were written by one and the same person;**
- B. The questioned and the standard specimen/exemplar signatures [of] “EMMANUEL C. PARAS” were written by one and the same person. (Emphasis supplied)<sup>12</sup>

The present controversy arose, when in 2008, three years after the complaint with the RTC of Manila was withdrawn, Gilbert again filed a complaint, this time, with the RTC of Mandaluyong, captioned as “Intra-Corporate Controversy: For the Declaration of Nullity of **Fraudulent** Transfers of Shares of Stock Certificates, Fabricated Stock Certificates, **Falsified** General Information Sheets, Minutes of Meetings, and Damages with Application for the Issuance of a Writ of Preliminary and Mandatory Injunction,” docketed as **SEC-MC08-112**, against his mother, Simny, his sisters, Geraldine, Gladys, and the heirs of his late sister Grace.<sup>13</sup>

Gilbert alleged that he never signed any document which would justify and support the transfer of his shares to his siblings and that he has in no way, disposed, alienated, encumbered, assigned or sold any or part of his shares in GoodGold.<sup>14</sup> He also denied the existence of the certificates of stocks. According to him, “there were no certificates of stocks under [his] name for the shares of stock subscribed by him were never issued nor delivered to him from the time of the inception of the corporation.”<sup>15</sup>

Gilbert added that the Amended General Information Sheets (GIS) of GoodGold for the years 2000 to 2004 which his siblings submitted to the Securities and Exchange Commission (SEC) were spurious as these did not reflect his true shares in the corporation which supposedly totaled to 595,000

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<sup>12</sup> Id. at 329.

<sup>13</sup> Id. at 114-140.

<sup>14</sup> Id. at 123.

<sup>15</sup> Id.

shares;<sup>16</sup> that no valid stockholders' annual meeting for the year 2004 was held, hence proceedings taken thereon, including the election of corporate officers were null and void;<sup>17</sup> and, that his siblings are foreign citizens, thus, cannot own more than forty percent of the authorized capital stock of the corporation.<sup>18</sup>

Gilbert also asked in his complaint for the issuance of a Writ of Preliminary and Mandatory Injunction to protect his rights.<sup>19</sup>

In an Order dated 30 June 2008,<sup>20</sup> the RTC denied Gilbert's Motion for Injunctive Relief<sup>21</sup> which constrained him to file a motion for reconsideration, and, thereafter, a Motion for Inhibition against Judge Edwin Sorongon, praying that the latter recuse himself from further taking part in the case.

Meanwhile, Gilbert's siblings filed a manifestation claiming that the complaint is a nuisance and harassment suit under Section 1(b), Rule 1 of the Interim Rules of Procedure on Intra-Corporate Controversies.

In an Order dated 6 November 2008,<sup>22</sup> the RTC denied the motion for inhibition. The RTC also dismissed the case, declaring it a nuisance and harassment suit, *viz.*:

WHEREFORE, the court resolves:

- (1) To DENY as it is hereby DENIED [respondent's] Motion for Inhibition;
- (2) To DENY as it is hereby DENIED [respondent's] Motion for Reconsideration of the June 30, 2008 Order; and,

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<sup>16</sup> Id at 118.

<sup>17</sup> Id. at 124-125.

<sup>18</sup> Id. at 127.

<sup>19</sup> Id. at 133-134.

<sup>20</sup> Id. at 92-97.

<sup>21</sup> Id. at 97.

<sup>22</sup> Id. at 98-105.

- (3) To declare as it is hereby declared the instant case as a **nuisance or harassment suit**. Accordingly, pursuant to Section 1(b), Rule 1 of the Interim Rules of Procedure for Intra-Corporate Dispute, the instant case is hereby DISMISSED. No pronouncement as to costs.<sup>23</sup>

This constrained Gilbert to assail the above Order before the Court of Appeals (CA). The petition for review was docketed as CA-G.R. SP No. 106405.

In a Decision<sup>24</sup> dated 27 May 2009, the CA upheld Judge Sorongon's refusal to inhibit from hearing the case on the ground that Gilbert failed to substantiate his allegation of Judge Sorongon's partiality and bias.<sup>25</sup>

The CA, in the same decision, also denied Gilbert's Petition for the Issuance of Writ of Preliminary Injunction for failure to establish a clear and unmistakable right that was violated as required under Section 3, rule 58 of the 1997 Rules of Civil Procedure.<sup>26</sup>

The CA, however, found merit on Gilbert's contention that the complaint should be heard on the merits. It held that:

A reading of the *Order, supra*, dismissing the [respondent's] complaint for being a harassment suit revealed that the court *a quo* relied heavily on the pieces of documentary evidence presented by the [Petitioners] to negate [Respondent's] allegation of fraudulent transfer of shares of stock, fabrication of stock certificates and falsification of General Information Sheets (GIS), *inter alia*. It bears emphasis that the [Respondent] is even questioning the genuineness and authenticity of the [Petitioner's] documentary evidence. To our mind, only a full-blown trial on the merits can afford the determination of the genuineness and authenticity of the documentary evidence and other factual issues which

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<sup>23</sup> Id. at 105.

<sup>24</sup> Penned by Associate Justice Myrna Dimaranan Vidal with Associate Justices Portia Aliño-Hormachuelos and Rosalinda Asuncion-Vicente concurring. Id. at 35-51.

<sup>25</sup> Id. at 43.

<sup>26</sup> Id. at 44.

will ultimately resolve whether there was indeed a transfer of shares of stock.<sup>27</sup>

Hence, these consolidated petitions.

**G.R. No. 189486** is a Petition for Review under Rule 45 of the Rules of Court filed by Simny, Geraldine, Gladys, and the heirs of the late Grace against Gilbert, which prays that this Court declare Civil Case No. SEC-MC08-112, a harassment or nuisance suit.

Meanwhile, during the pendency of G.R. No. 189486, the trial court set the pre-trial conference on the case subject of this controversy, constraining the petitioners to file a Motion to defer the pre-trial, which was, however, denied by the court *a quo* in an Order dated **11 September 2009**,<sup>28</sup> *viz.:*

In a Resolution dated September 3, 2009, the Honorable Court of Appeals (CA) (Former Second Division) denied the Motion for Partial Reconsideration filed [by petitioners] herein. Inasmuch as there is no longer any impediment to proceed with the instant case and the fact that this court was specifically directed by the May 27, 2009 Decision of the CA Second Division to proceed with the trial on the merits with dispatch, this court resolves to deny the motion under consideration.

WHEREFORE, premises considered, the Motion to Defer Pre-Trial Conference and Further Proceedings filed by [petitioners] is hereby DENIED. Set the pre-trial on October 20, 2009, at 8:30 in the morning.

The denial of the petitioners' motion to defer pre-trial, compelled them to file with this Court a Petition for *Certiorari* with Urgent Application for the Issuance of TRO and/or A Writ of Preliminary Injunction, docketed as **G.R. No. 189699**. Because of the pendency of the G.R. No. 189486

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<sup>27</sup> Id. at 47-48.

<sup>28</sup> *Rollo* (G.R. No. 189699), p. 23.

before us, the petitioners deemed proper to question the said denial before us as an incident arising from the main controversy.<sup>29</sup>

### ***OUR RULING***

Suits by stockholders or members of a corporation based on wrongful or fraudulent acts of directors or other persons may be classified into individual suits, class suits, and derivative suits.<sup>30</sup>

An individual suit may be instituted by a stockholder against another stockholder for wrongs committed against him personally, and to determine their individual rights<sup>31</sup> – this is an individual suit between stockholders. But an individual suit may also be instituted against a corporation, the same having a separate juridical personality, which by its own may be sued. It is of course, essential that the suing stockholder has a cause of action against the corporation.<sup>32</sup>

Individual suits against another stockholder or against a corporation are remedies which an aggrieved stockholder may avail of and which are recognized in our jurisdiction as embedded in the Interim Rules on Intra-Corporate Controversy. Together with this right is the parallel obligation of a party to comply with the compulsory joinder of indispensable parties whether they may be stockholders or the corporation itself.

***The absence of an indispensable party in a case renders all subsequent actions of the court null and void for want of authority to act,***

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<sup>29</sup> Id. at 6.

<sup>30</sup> *Cua, Jr. v. Tan*, G.R. Nos. 181455-56, 4 December 2009, 607 SCRA 645, 690.

<sup>31</sup> Vol. 18, C.J.S. Corporations, §533 (1939).

<sup>32</sup> Id. at Vol. 18, C.J.S. Corporations, §520 (1939).

*not only as to the absent parties but even as to those present.*<sup>33</sup>

It bears emphasis that this controversy started with Gilbert's complaint filed with the RTC of Mandaluyong City in his capacity as stockholder, director and Vice-President of GoodGold.<sup>34</sup>

Gilbert's complaint essentially prayed for the return of his original 519,997 shares in GoodGold, by praying that the court declare that "there were no valid transfers [of the contested shares] to defendants and Francisco."<sup>35</sup> It baffles this Court, however, that Gilbert omitted Francisco as defendant in his complaint. While Gilbert could have opted to waive his shares in the name of Francisco to justify the latter's non-inclusion in the complaint, Gilbert did not do so, but instead, wanted everything back and even wanted the whole transfer of shares declared fraudulent. This cannot be done, without including Francisco as defendant in the original case. The transfer of the shares cannot be, as Gilbert wanted, declared entirely fraudulent without including those of Francisco who owns almost a third of the total number.

Francisco, in both the 2004 and 2008 complaints, is an indispensable party without whom no final determination can be had for the following reasons: (a) the complaint prays that the shares now under the name of the defendants **and Francisco** be declared fraudulent; (b) Francisco owns 195,000 shares some of which, Gilbert prays be returned to him; (c) Francisco signed the certificates of stocks evidencing the alleged fraudulent shares previously in the name of Gilbert. The inclusion of the shares of Francisco in the complaint makes Francisco an indispensable party. Moreover, the

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<sup>33</sup> R.J. Francisco, CIVIL PROCEDURE, p.139 (2001).

<sup>34</sup> *Rollo* (G.R. No. 189486), p. 132.

<sup>35</sup> *Id.* at 137.

pronouncement about the shares of Francisco would impact on the hereditary rights of the contesting parties or on the conjugal properties of the spouses to the effect that Francisco, being husband of Simny and father of the other contesting parties, must be included for, otherwise, in his absence, there cannot be a determination between the parties already before the court which is effective, complete, or equitable.

The definition in the Rules of Court, Section 7, Rule 3 thereof, of indispensable parties as “parties in interest without whom no final determination can be had of an action” has been jurisprudentially amplified. In *Sps. Garcia v. Garcia, et.al.*,<sup>36</sup> this Court held that:

An indispensable party is a party who has such an interest in the controversy or subject matter that a final adjudication cannot be made, in his absence, without injuring or affecting that interest, a party who has not only an interest in the subject matter of the controversy, but also has an interest of such nature that a final decree cannot be made without affecting his interest or leaving the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience. It has also been considered that an indispensable party is a person in whose absence there cannot be a determination between the parties already before the court which is effective, complete, or equitable. Further, an indispensable party is one who must be included in an action before it may properly go forward.

This was our pronouncements in *Servicewide Specialists Inc. v. CA*,<sup>37</sup> *Arcelona v. CA*,<sup>38</sup> and *Casals v. Tayud Golf and Country Club, Inc.*<sup>39</sup>

Settled is the rule that joinder of indispensable parties is compulsory<sup>40</sup> being a *sine qua non* for the exercise of judicial power,<sup>41</sup> and, it is precisely “when an indispensable party is not before the court that the action should be

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<sup>36</sup> G.R. No. 169157, 14 November 2011.

<sup>37</sup> 321 Phil. 427 (1995).

<sup>38</sup> 345 Phil. 250 (1997).

<sup>39</sup> G.R. No. 183105, 22 July 2009, 593 SCRA 468.

<sup>40</sup> RULES OF COURT, Rule 3, Section 7.

<sup>41</sup> R.J. Francisco, CIVIL PROCEDURE, Vol. I, p. 139 (2001).

dismissed” for such absence renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.<sup>42</sup>

It bears emphasis that Gilbert, while suing as a stockholder against his co-stockholders, should have also impleaded GoodGold as defendant. His complaint also prayed for the annulment of the 2004 stockholders’ annual meeting, the annulment of the 2004 election of the board of directors and of its officers, the annulment of 2004 GIS submitted to the SEC, issuance of an order for the accounting of all monies and rentals of GoodGold, and the issuance of a writ of preliminary and mandatory injunction. We have made clear that GoodGold is a separate juridical entity distinct from its stockholders and from its directors and officers. The trial court, acting as a special commercial court, cannot settle the issues with finality without impleading GoodGold as defendant. Like Francisco, and for the same reasons, GoodGold is an indispensable party which Gilbert should have impleaded as defendant in his complaint.

***Allegations of deceit, machination, false pretenses, misrepresentation, and threats are largely conclusions of law that, without supporting statements of the facts to which the allegations of fraud refer, do not sufficiently state an effective cause of action.***<sup>43</sup>

“In all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with particularity”<sup>44</sup> to “appraise the other party of what he is to be called on to answer, and so that it may be

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<sup>42</sup> Id.

<sup>43</sup> *Reyes v. RTC of Makati City, Br. 142*, G.R. No. 165744, 11 August 2008, 561 SCRA 593, 607.

<sup>44</sup> RULES OF COURT, Rule 8, Sec.5.

determined whether the facts and circumstances alleged amount to fraud.”<sup>45</sup> These particulars would necessarily include the time, place and specific acts of fraud committed.<sup>46</sup> “The reason for this rule is that an allegation of fraud concerns the morality of the defendant’s conduct and he is entitled to know fully the ground on which the allegations are made, so he may have every opportunity to prepare his case to clear himself at the trial.”<sup>47</sup>

The complaint of Gilbert states:

13. The said **spurious** Amended GIS for the years 2000, 2001, 2002, 2003, 2004 and also in another falsified GIS for the year 2004, the [petitioners] indicated the following alleged stockholders of GOODGOLD with their respective shareholdings, to wit:

NAME	NO. OF SHARES
Francisco Guy Co Chia	195,000
Simny G. Guy	195,000
Gilbert G. Guy	65,000
Geraldine G. Guy	65,000
Grace G.-Cheu	65,000
Gladys G. Yao	65,000
<b>Total</b>	650,000

14. The above **spurious** GIS would show that form the original 519,997 shares of stocks owned by the [respondent], which is equivalent to almost 80% of the total subscriptions and/or the outstanding capital stock of GOODGOLD, [respondent’s] subscription [was] drastically reduced to only 65,000 shares of stocks which is merely equivalent to only 10 percent of the outstanding capital stock of the corporation.

15. **Based on the spurious GIS, shares pertaining to Benjamin Lim and Paulino Delfin Pe were omitted and the total corporate shares originally owned by incorporators including herein [respondent] have been fraudulently transferred and distributed, as follows: x x x (Emphasis supplied)**

x x x x

18. To date, [respondent] is completely unaware of any documents signed by him that would justify and support the foregoing transfer of his shares to the defendants. [Respondent] strongly affirms that he has not in any way, up to this date of filing the instant complaint, disposed, alienated,

<sup>45</sup> R.J. Francisco, CIVIL PROCEDURE, Vol. I, p. 309 (2001).

<sup>46</sup> Id. at 83.

<sup>47</sup> Id. at 309.

encumbered, assigned or sold any or part of the shares of stocks of GOODGOLD corporation owned by him and registered under his name under the books of the corporation.

19. Neither has [respondent] endorsed, signed, assigned any certificates of stock representing the tangible evidence of his stocks ownership, there being no certificates of stocks issued by the corporation nor delivered to him since its inception on June 6, 1988. Considering that the corporation is merely a family corporation, plaintiff does not find the issuance of stock certificates necessary to protect his corporate interest and he did not even demand for its issuance despite the fact that he was the sole subscriber who actually paid his subscription at the time of incorporation.<sup>48</sup>

Tested against established standards, we find that the charges of fraud which Gilbert accuses his siblings are not supported by the required factual allegations. In *Reyes v. RTC of Makati*,<sup>49</sup> which we now reiterate, *mutatis mutandis*, while the complaint contained allegations of fraud purportedly committed by his siblings, these allegations are not particular enough to bring the controversy within the special commercial court's jurisdiction; they are not statements of ultimate facts, but are mere conclusions of law: how and why the alleged transfer of shares can be characterized as "fraudulent" were not explained and elaborated on.<sup>50</sup> As emphasized in *Reyes*:

Not every allegation of fraud done in a corporate setting or perpetrated by corporate officers will bring the case within the special commercial court's jurisdiction. **To fall within this jurisdiction, there must be sufficient nexus showing that the corporation's nature, structure, or powers were used to facilitate the fraudulent device or scheme.**<sup>51</sup> (Emphasis supplied)

Significantly, no corporate power or office was alleged to have facilitated the transfer of Gilbert's shares. How the petitioners perpetrated

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<sup>48</sup> *Rollo* (G.R. No. 189486), pp. 117-119.

<sup>49</sup> *Supra* note 43.

<sup>50</sup> *Id.* at 607-608.

<sup>51</sup> *Id.* at 608.

the fraud, if ever they did, is an indispensable allegation which Gilbert must have had alleged with particularity in his complaint, but which he failed to.

*Failure to specifically allege the fraudulent acts in intra-corporate controversies is indicative of a harassment or nuisance suit and may be dismissed motu proprio.*

In ordinary cases, the failure to specifically allege the fraudulent acts does not constitute a ground for dismissal since such a defect can be cured by a bill of particulars.<sup>52</sup> Thus:

Failure to allege fraud or mistake with as much particularity as is desirable is not fatal if the general purport of the claim or defense is clear, since all pleadings should be so construed as to do substantial justice. Doubt as to the meaning of the pleading may be resolved by seeking a bill of particulars.

A bill of particulars may be ordered as to a defense of fraud or mistake if the circumstances constituting fraud or mistake are not stated with the particularity required by the rule.<sup>53</sup>

The above-stated rule, however, does not apply to intra-corporate controversies. In *Reyes*,<sup>54</sup> we pronounced that “in cases governed by the Interim Rules of Procedure on Intra-Corporate Controversies a bill of particulars is a prohibited pleading. **It is essential, therefore, for the complaint to show on its face what are claimed to be the fraudulent corporate acts if the complainant wishes to invoke the court’s special commercial jurisdiction.**” This is because fraud in intra-corporate controversies must be based on “devises and schemes employed by, or any act of, the board of directors, business associates, officers or partners, amounting to **fraud or misrepresentation** which may be detrimental to the

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<sup>52</sup> Id. at 609.

<sup>53</sup> R.J. Francisco, CIVIL PROCEDURE, Vol. I, p. 310 (2001).

<sup>54</sup> Supra note 43 at 609.

interest of the public and/or of the stockholders, partners, or members of any corporation, partnership, or association,” as stated under Rule 1, Section 1 (a)(1) of the Interim Rules. The act of fraud or misrepresentation complained of becomes a criterion in determining whether the complaint on its face has merits, or within the jurisdiction of special commercial court, or merely a nuisance suit.

It did not escape us that Gilbert, instead of particularly describing the fraudulent acts that he complained of, just made a sweeping denial of the existence of stock certificates by claiming that such were not necessary, GoodGold being a mere family corporation.<sup>55</sup> As sweeping and bereft of particulars is his claim that he “is unaware of any document signed by him that would justify and support the transfer of his shares to herein petitioners.”<sup>56</sup> Even more telling is the contradiction between the denial of the existence of stock certificates and the denial of the transfer of his shares of stocks “under his name under the books of the corporations.”

It is unexplained that while Gilbert questioned the authenticity of his signatures indorsing the stock certificates, and that of Atty. Emmanuel Paras, the corporate secretary, he did not put in issue as doubtful the signature of his father which also appeared in the certificate as President of the corporation. Notably, Gilbert, during the entire controversy that started with his 2004 complaint, failed to rebut the NBI Report which authenticated all the signatures appearing in the stock certificates.

Even beyond the vacant pleadings, its nature as nuisance is palpable. To recapitulate, it was only after five years following the redistribution of GoodGold’s shares of stock, that Gilbert filed with the RTC of Manila, a

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<sup>55</sup> *Rollo* (G.R. No. 189486), p. 123.

<sup>56</sup> *Id.* at 119.

Complaint for the “Declaration of Nullity of Transfers of Shares in GoodGold and of General Information Sheets and Minutes of Meeting, and for Damages with Application for a Preliminary Injunctive Relief,” against his mother, Simny, and his sisters, Geraldine, Grace, and Gladys.<sup>57</sup> Gilbert alleged, among others, that no stock certificate ever existed;<sup>58</sup> that his signature at the back of the spurious Stock Certificate Nos. 004-014 which purportedly endorsed the same and that of the corporate secretary, Emmanuel Paras, at the obverse side of the certificates were forged, and, hence, should be nullified.<sup>59</sup> Gilbert withdrew this complaint after the NBI submitted a report to the RTC of Manila authenticating Gilbert’s signature in the endorsed certificates. And, it was only after three years from the withdrawal of the Manila complaint, that Gilbert again filed in 2008 a complaint also for declaration of nullity of the transfer of the shares of stock, this time with the RTC of Mandaluyong. The caption of the complaint is “Intra-Corporate Controversy: For the Declaration of Nullity of **Fraudulent** Transfers of Shares of Stock Certificates, Fabricated Stock Certificates, **Falsified** General Information Sheets, Minutes of Meetings, and Damages with Application for the Issuance of a Writ of Preliminary and Mandatory Injunction,” docketed as **SEC-MC08-112**, against his mother, Simny, his sisters, Geraldine, Gladys, and the heirs of his late sister Grace.<sup>60</sup>

*When a stock certificate is endorsed in blank by the owner thereof, it constitutes what is termed as “street certificate,” so that upon its face, the holder is entitled to demand its transfer his name from the issuing corporation.*

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<sup>57</sup> Id. at 9.

<sup>58</sup> Id. at 123.

<sup>59</sup> Id.

<sup>60</sup> Id. at 114-140.

With Gilbert's failure to allege specific acts of fraud in his complaint and his failure to rebut the NBI report, this Court pronounces, as a consequence thereof, that the signatures appearing on the stock certificates, including his blank endorsement thereon were authentic. With the stock certificates having been endorsed in blank by Gilbert, which he himself delivered to his parents, the same can be cancelled and transferred in the names of herein petitioners.

In *Santamaria v. Hongkong and Shanghai Banking Corp.*,<sup>61</sup> this Court held that when a stock certificate is endorsed in blank by the owner thereof, it constitutes what is termed as "street certificate," so that upon its face, the holder is entitled to demand its transfer into his name from the issuing corporation. Such certificate is deemed quasi-negotiable, and as such the transferee thereof is justified in believing that it belongs to the holder and transferor.

While there is a contrary ruling, as an exception to the general rule enunciated above, what the Court held in *Neugene Marketing Inc., et al., v CA*,<sup>62</sup> where stock certificates endorsed in blank were stolen from the possession of the beneficial owners thereof constraining this Court to declare the transfer void for lack of delivery and want of value, the same cannot apply to Gilbert because the stock certificates which Gilbert endorsed in blank were in the undisturbed possession of his parents who were the beneficial owners thereof and who themselves as such owners caused the transfer in their names. Indeed, even if Gilbert's parents were not the beneficial owners, an endorsement in blank of the stock certificates coupled

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<sup>61</sup> 89 Phil. 780, 788-789 (1951).

<sup>62</sup> 362 Phil. 633, 644 (1999).

with its delivery, entitles the holder thereof to demand the transfer of said stock certificates in his name from the issuing corporation.<sup>63</sup>

Interestingly, Gilbert also used the above discussed reasons as his arguments in *Gilbert Guy v. Court of Appeals, et al.*,<sup>64</sup> a case earlier decided by this Court. In that petition, Lincoln Continental, a corporation purportedly owned by Gilbert, filed with the RTC, Branch 24, Manila, a Complaint for Annulment of the Transfer of Shares of Stock against Gilbert's siblings, including his mother, Simny. The complaint basically alleged that Lincoln Continental owns 20,160 shares of stock of Northern Islands; and that Gilbert's siblings, in order to oust him from the management of Northern Islands, falsely transferred the said shares of stock in his sisters' names.<sup>65</sup> This Court dismissed Gilbert's petition and ruled in favor of his siblings *viz*:

One thing is clear. **It was established before the trial court, affirmed by the Court of Appeals, that Lincoln Continental held the disputed shares of stock of Northern Islands merely in trust for the Guy sisters.** In fact, the evidence proffered by Lincoln Continental itself supports this conclusion. It bears emphasis that this factual finding by the trial court was affirmed by the Court of Appeals, being supported by evidence, and is, therefore, final and conclusive upon this Court.

Article 1440 of the Civil Code provides that:

“ART. 1440. A person who establishes a trust is called the trustor; one in whom confidence is reposed as regards property for the benefit of another person is known as the trustee; and the person for whose benefit the trust has been created is referred to as the beneficiary.”

In the early case of *Gayondato v. Treasurer of the Philippine Islands*, this Court defines trust, in its technical sense, as “a right of property, real or personal, held by one party for the benefit of another.” Differently stated, a trust is “a fiduciary relationship with respect to property, subjecting the person holding the same to the obligation of dealing with the property for the benefit of another person.”

Both Lincoln Continental and Gilbert claim that the latter holds legal title to the shares in question. But *record shows that there is no*

<sup>63</sup> *Santamaria v. Hongkong and Shanghai Banking Corporation*, supra note 61 at 788.

<sup>64</sup> G.R. Nos. 165849, 170185, 170186, 171066, 176650, 10 December 2007, 539 SCRA 584.

<sup>65</sup> *Id.* at 590-591.

*evidence to support their claim.* Rather, the evidence on record clearly indicates that the stock certificates representing the contested shares are in respondents' possession. Significantly, there is no proof to support his allegation that the transfer of the shares of stock to respondent sisters is fraudulent. As aptly held by the Court of Appeals, fraud is never presumed but must be established by clear and convincing evidence. Gilbert failed to discharge this burden. We agree with the Court of Appeals that respondent sisters own the shares of stocks, Gilbert being their mere trustee.<sup>66</sup> (Underlining supplied).

This Court finds no cogent reason to divert from the above stated ruling, these two cases having similar facts.

**WHEREFORE**, premises considered, the petitions in **G.R. Nos. 189486 and 189699** are hereby **GRANTED**. The Decision dated 27 May 2009 of the Court of Appeals in CA-G.R. SP No. 106405 and its Resolution dated 03 September 2009 are **REVERSED and SET ASIDE**. The Court **DECLARES** that SEC-MC08-112 now pending before the Regional Trial Court, Branch 211, Mandaluyong City, is a nuisance suit and hereby **ORDERS** it to **IMMEDIATELY DISMISS** the same for reasons discussed herein.

**SO ORDERED.**

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

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<sup>66</sup> Id. at 607-608.

WE CONCUR:



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ARTURO D. BRION**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**A T T E S T A T I O N**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice